

REMARKS/ARGUMENTS

I. SPECIFICATION

The title has been amended to better reflect the invention to which the claims are directed.

II. STATUS OF CLAIMS

Claims 1-30 remain in this application. Claims 1 and 16 have been amended. It should be noted that Applicant has elected to amend said Claims solely for the purpose of expediting the patent application process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making this amendment, Applicant has not and does not in any way narrow the scope of protection to which Applicant considers the invention herein to be entitled and does not concede, in any way, that the subject matter of such Claims was in fact taught or disclosed by the cited prior art. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

III. CLAIM REJECTIONS – 35 U.S.C. § 102

The Office Action rejected Claims 1 and 16 under 35 U.S.C. § 102(e) as anticipated by Zisapel et al. U.S. Publication No. 2002/0103846 A1, August 1, 2002 (Hereinafter Zisapel). The rejection is respectfully traversed.

Claims 1 and 16 have been amended to clarify the invention and appear as follows:

1. A process for routing packets through a load balancing array of servers across a network in a computer environment, comprising the steps of:

providing a plurality of load balancing servers;

providing at least one back end Web server;

wherein one of said load balancing servers is also a scheduler;

wherein all request packets from clients destined for the load balancing array are routed through said scheduler;

wherein said scheduler routes and load balances a request packet to a load balancing server;

wherein said load balancing server routes and load balances said request packet to a back end Web server;

wherein said back end Web server's response packet to said request packet is sent to said load balancing server; and

wherein said load balancing server sends said response packet directly to said client.

16. An apparatus for routing packets through a load balancing array of servers across a network in a computer environment, comprising:

a plurality of load balancing servers;

at least one back end Web server;

wherein one of said load balancing servers is also a scheduler;

wherein all request packets from clients destined for the load balancing array are routed through said scheduler;

wherein said scheduler routes and load balances a request packet to a load balancing server;

wherein said load balancing server routes and load balances said request packet to a back end Web server;

wherein said back end Web server's response packet to said request packet is sent to said load balancing server; and

wherein said load balancing server sends said response packet directly to said client.

In particular, Zisapel does not teach or disclose a system wherein all request packets from clients destined for the load balancing array are routed through a scheduler as claimed in Claims 1 and 16. Zisapel teaches away from such a system by teaching that redundant server farms are provided each having its own load balancer (LB) (paragraph 37, col. 3) and each LB receives client requests. Each LB can forward a request to another LB using the other LB's virtual IP address or closest LB (paragraph 13, col. 2, paragraph 43, col. 4) where each LB maintains each other's status (paragraph 33, col. 3). When an LB reroutes a client request to another LB using the destination LB's virtual IP address, the destination LB uses the originating LB's IP address when responding to the request. This further shows that each LB directly receives client requests.

Therefore, each of Zisapel's LBs receives client requests and can reroute those requests to other LBs. This is not what is claimed in Claims 1 and 16.

Anticipation under 35 U.S.C. § 102 requires a reference to teach or disclose each and every element, limitation, or step of a claim. Since Claim 1 and Claim 16 each

include at least one element not found in Zisapel, the Zisapel patent does not anticipate Claim 1 or Claim 16 under 35 U.S.C. § 102.

Zisapel therefore does not teach every aspect of the claimed invention either explicitly or impliedly.

Claims 1 and 16 are allowable. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. 102(e).

IV. CLAIM REJECTIONS – 35 U.S.C. § 102

The Office Action rejected Claims 2 and 17 under 35 U.S.C. § 102(e) as anticipated by Zisapel et al. U.S. Publication No. 2002/0103846 A1, August 1, 2002 (Hereinafter Zisapel).

The rejection under 35 USC §102(e) is deemed moot in view of Applicant's comments regarding Claims 1 and 16, above. Claims 2 and 17 are dependent upon independent Claims 1 and 16, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §102(e).

V. CLAIM REJECTIONS – 35 U.S.C. § 103

The Office Action rejected Claims 3, 4, 7, 8, 13, 18, 19, 22, 23, and 28 under 35 U.S.C. § 103(a) as being unpatentable over Zisapel in view of "Official Notice". The rejection is respectfully traversed.

The rejection under 35 USC §103(a) is deemed moot in view of Applicant's comments regarding Claims 1 and 16, above.

However, Applicant respectfully requests that the Examiner provide evidence of the "Official Notice" claims in the Office Action.

Claims 3, 4, 7, 8, 13, and 18, 19, 22, 23, 28, are dependent upon independent Claims 1 and 16, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(a).

VI. CLAIM REJECTIONS – 35 U.S.C. § 103

The Office Action rejected Claims 5, 6, 14, 15, 20, 21, 29, and 30 under 35 U.S.C. § 103(a) as being unpatentable over Zisapel in view of Masters 6,374,300. The rejection is respectfully traversed.

The rejection under 35 USC §103(a) is deemed moot in view of Applicant's comments regarding Claims 1 and 16, above.

However, Applicant respectfully requests that the Examiner provide evidence of the "Official Notice" claims in the Office Action. For example, the Office Action claims that Masters is an example of what was well-known in the prior art and that Masters clearly teaches modifying URLs in the HTML page in a response packet to serve them from said content delivery network, but there is no such teaching found in Masters. A further example is that there is no teaching in Masters that a load balancer schedules sessions to back end Web servers based on a cookie or session ID, as the Office Action states.

Claims 5, 6, 14, 15, and 20, 21, 29, 30, are dependent upon independent Claims 1 and 16, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(a).

VII. CLAIM REJECTIONS – 35 U.S.C. § 103

The Office Action rejected Claims 9-12 and 24-27 under 35 U.S.C. § 103(a) as being unpatentable over Zisapel in view of “Official Notice” and Masters 6,374,300. The rejection is respectfully traversed.

However, Applicant respectfully requests that the Examiner provide evidence of the “Official Notice” claims in the Office Action. For example, the Office Action claims that Masters is an example of what was well-known in the prior art and that Masters teaches about URL based scheduling of packets, and load balancing server performing hash scheduling of packets and uses hash group based persistence to maintain its persistence tables, but there is no such teaching found in Masters. Masters teaches that hashing is used to encode information in a cookie. This is not what is claimed in the invention.

The rejection under 35 USC §103(a) is deemed moot in view of Applicant’s comments regarding Claims 1 and 16, above. Claims 9-12 and 24-27, are dependent upon independent Claims 1 and 16, respectively. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 USC §103(a).

VIII. MISCELLANEOUS

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The Applicants believe that all issues raised in the Office Action have been addressed and that allowance of the pending claims is appropriate. Entry of the amendments herein and further examination on the merits are respectfully requested.


The Examiner is invited to telephone the undersigned at (408) 414-1080 to discuss any issue that may advance prosecution.

No fee is believed to be due specifically in connection with this Reply. To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this Reply to our Deposit Account No. 50-1302.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

Dated: September 8, 2004

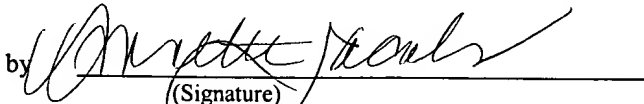

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

on September 8, 2004
(Date)

by 
(Signature)